



GAO report: USAID partners violated antiterror laws in West Bank, Gaza

 devex.com/news/gao-report-usaid-partners-violated-antiterror-laws-in-west-bank-gaza-99552

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March 31, 2021





A USAID sign is seen at a water desalination plant in the central Gaza Strip. Photo by: Ibraheem Abu Mustafa / Reuters

The U.S. Agency for International Development did not ensure its subcontractors in the West Bank and Gaza complied with U.S. antiterrorism regulations, a U.S. Government Accountability Office report found.

Money programed from the Economic Support Fund U.S. foreign assistance account, or ESF, must follow three rules adopted by the USAID West Bank and Gaza mission, known as "Mission Order 21": Non-U.S. participants must be vetted; recipients of grants or cooperative agreements must get antiterrorism certifications; and awardees must comply with provisions intended to prevent financial support to terrorism.

While all 55 prime awardees between 2015 and 2019 were in compliance, GAO found that in "numerous instances" subawardees "showed gaps in compliance for the vetting and mandatory provisions requirements."

Appropriations bills for the fiscal years 2015 to 2019 included provisions to allow GAO to assess whether funds spent in the West Bank and Gaza were done so in accordance with U.S. anti-terror laws. GAO conducted the audit, which was released publicly on Monday, between December 2018 and March 2021.

'No tea for terrorists': How counterterror laws hamper NGOs

U.S. counterterrorism laws that dictate what constitutes "material support" haven't been amended since after 9/11, despite having adverse impacts on development and humanitarian programming in fragile contexts.

The U.S. has strict laws in place to ensure that none of its foreign assistance provides “material support” to a terrorist group or person involved in terrorist activity. Development and humanitarian groups have said that these regulations, many of which were passed in the aftermath of the 9/11 attacks, are overly broad and need to be updated to most effectively support peacebuilding efforts.

GAO analyzed a “generalizable sample” of subawards and found that 13 of 86 USAID compliance review reports — covering 420 subawards — had one or more instances of a prime awardee not using the mandatory provisions in subaward contracts. While USAID provided training for prime awardees to ensure subawardees were in compliance, there was no process to verify that they were doing so, GAO found.

GAO found that compliance reviews sometimes happened after subawards had expired, meaning no corrective action could be taken.

In addition to compliance with anti-terror regulations, the report examined the status of ESF funding to the West Bank and Gaza for fiscal years 2015 to 2019. The U.S. stopped providing new funding to the West Bank and Gaza as of Jan. 31, 2019, although some money was spent after that date related to the cost of closing out the 27 ongoing programs. The GAO report also examined how former President Donald Trump’s decision to cut off funding affected USAID staffing levels in the Palestinian territories: It found that staffing declined by about 39% due to departures, transfers, and resignations.

For fiscal year 2020, Congress appropriated not less than \$75 million in ESF money for the West Bank and Gaza if certain conditions are met. President Joe Biden’s administration has indicated it intends to restore funding cut off or reprogrammed by Trump.

The report made two recommendations for USAID if funding is to resume: It should establish a process of verifying that prime awardees have processes in place to comply with Mission Order 21 requirements before they can make subawards; and it should conduct post-award compliance reviews of prime and subawardees so any action against noncompliance can be taken before an award ends.

According to the GAO report, USAID concurred with those recommendations, and an agency spokesperson told Devex USAID is “already taking steps to increase oversight of subawardees in the future.” The West Bank and Gaza mission will conduct compliance reviews of prime and subawardees within the first 18 months of program implementation, the spokesperson said.

“USAID takes seriously its commitment to ensuring American taxpayer funds are spent as intended and do not inadvertently support entities or individuals associated with terrorism,” the spokesperson said. “We appreciate the GAO’s assistance as we continuously work to improve our oversight of these important programs.”

Update, April 1, 2021: The headline of this article has been updated to clarify that USAID partners violated antiterror regulations, according to the GAO.

About the author
